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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/753,858
Filing Date: January 08, 2004
Appellant(s): CHILDRESS ET AL.

Cathrine K. Kinslow
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/27/2009 appealing from the Office action mailed 10/08/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2007/0113017	Lam	5-2007
2002/0105911	Pruthi et al.	8-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9- 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lam** U.S. Publication No.: 2007/0113017 A1 and further in view of **Pruthi et al .** (hereinafter **Pruthi)** U.S. Publication No.: 2002/0105911 A1.

Regarding claim 9, Lam discloses: A data processing system for identifying nodes in a network data processing system, the data processing system comprising: a bus system **(Figure 7 and par. 56, 58; SCSI bus)**; a communications unit connected to the bus system **(Figures 1- 2, 7- 8 and par. 27; computer, processor, various servers and network)**; a memory connected to the bus system, wherein the memory includes a set of instructions **(Figures 1- 2, 7- 8 and par. 27; [210, 250-1 324, 340, 245, 325, 719, 725, 732] generating commands)**; and a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to receive cache data

from a set of routers in the data processing system on a periodic basis, wherein the cache data includes an identification of the nodes sending data packets onto the network data processing system **(Figures 1- 2, 5, 7- 9 and Abstract & par. 27 & 37; [508-540]recording data, computer/processor and cache data)**; in response to receiving the cache data, store the cache data basis prior to clearing the cache data present in the set of routers, wherein the stored cache data comprises snapshots of cache data previously present in the set of routers over time **(Figures 5 & 9 and Abstract; [508-540] [719-750] determining requirement of snapshot)**; identify the nodes on the network data processing system using the stored cache data from the set of routers **(par. 34, 37- 38, 45 and 56; identifiers)**; and generate a display of the nodes in a graphical view comprising communications paths between the nodes with a graphical indication of network traffic volume using the stored cache data, wherein the graphical view includes network traffic volume and node relationships over time.

Lam does not explicitly teach generating a display of the nodes in a graphical view comprising communications paths between the nodes with a graphical indication of network traffic volume using the stored cache data, wherein the graphical view includes network traffic volume and node relationships over time.

In the same field of endeavor, **Pruthi** teaches generating a display of the nodes in a graphical view comprising communications paths between the nodes with a graphical indication of network traffic volume using the stored cache data,

wherein the graphical view includes network traffic volume and node relationships over time **(Figures 10- 23 and Abstract; traffic plots)**.

Accordingly it would have been obvious for one of ordinary skill in the art to modify or incorporate **Pruthi's** teachings of graphically depicting network traffic and node relationships over time with the teachings of **Lam**, to collect, analyze and monitor data over a communications network **(Pruthi par. 2)**.

Claim 10 is substantially the same as **claim 9** and is therefore rejected for the same rationale as **claim 9**.

Regarding claim 11 Pruthi-Lam further discloses wherein the cache data is from a set of address resolution protocol caches located on the set of routers **(Pruthi par. 32 and 39; ARP)**.

Regarding claim 12 Pruthi-Lam further discloses wherein identifying means for identifying communications paths between the nodes on the network data processing system using the cache data **(par. 34, 37- 38, 45 and 56; identifiers)**.

Regarding claim 13 Pruthi-Lam further discloses comprising: identifying means for identifying network traffic on the communication paths using the cache data received on the periodic basis from the set of routers **(Pruthi Figures 10-23 and Abstract; traffic plots)**.

Regarding claim 14 Pruthi-Lam further discloses wherein the cache data received on the periodic basis is used to validate service level agreement compliance **(Pruthi par. 56; SLA)**.

Regarding claim 15 Pruthi-Lam further discloses wherein the cache data is received through agents located on the set of routers **(Figures 1- 2, 5, 7- 9 and Abstract & par. 27 & 37; [508-540]recording data, computer/processor and cache data)**.

Regarding claim 16 Pruthi-Lam further discloses where the agents clear the set of address resolution protocol caches each time data is sent to the data processing system **(Figures 5 & 9 and Abstract; [508-540] [719-750] determining requirement of snapshot)**.

Claim 17: Wherein the cache data contains entries for the nodes sending data packets onto the network data processing system and wherein each entry includes at least one of a media access control address, a source Internet Protocol address, and a destination Internet Protocol address **(Pruthi par. 32 and 39; ARP)**.

Claims 18-21 list all the same elements as **claims 9-17** but in computer readable medium form rather than system form. Therefore, the supporting rationale used to reject **claims 9-17** apply equally as well to **claims 18-21**.

(10) Response to Argument

Appellant's arguments have been fully considered but are not persuasive. In substance, the appellant argues A) that Lam and Pruthi, either alone or in combination, do not teach or suggest receiving cache data from a set of routers in the data processing system on a periodic basis, wherein the cache data includes an identification of the nodes sending data packets onto the network data processing

system; B) the examiner failed to provide a prima facie obviousness rejection against claim 1 because the examiner failed to state a proper reason to combine the references; C) Lam does not teach or suggest identifying, from the stored cache data, the communication paths of the nodes that sent the data.

In response to A), the examiner respectfully disagrees. The recitation of a "data processing system" and "cache[d] data" are broad, a "data processing system" can be viewed simply as any system that processes/handles/transmits data; and "cache[d] data" can be viewed as any form of recently accessed/processed data. In this case Lam-Pruthi disclose that communication between/among nodes in a system (comprising of various forms of local and remote servers connected to a storage system over a network) is implemented over any number of different networks (i.e., WAN or Internet) by means of IP protocols. All data packets transmitted by means of IP protocol contain both a source node address and a destination node address of all packets routed (i.e., via a routing device inherent in a network such as the Internet) within its framework/header (Lam: par. 27 and fig.1). Since, Lam-Pruthi's system is designed to preserve data within a storage system, which is defined as a system that has a cache and at least one storage device (Lam: Abstract); the examiner asserts that Lam-Pruthi's exemplary system, depicted in figure 1 of Lam, does in fact recite/read on the teachings of receiving cache data, by taking "snapshots" of data within a storage system, and sending/transmitting this data, via the system comprising of local and remote servers described above, through the use of IP protocol which includes an identification of both the sender and receiver of the data packets. The appellant can easily overcome the

prior art of record by defining more precisely the "stored cache data from the set of routers" (i.e., by distinguishing this data as being the cache data from the routing tables within the routers, and not simply "cached data", as in recently accessed/processed data).

In response to B), the examiner respectfully disagrees. Keeping in mind the points made in A), the examiner will like to point out that, Lam discloses the need for performing snapshots of data stored in a storage system (i.e., a router) which may be used for recovering earlier versions of data in the event that a current version becomes corrupted. This in turn would be data that is essential/pertinent to the needs of a client in a client server system; therefore provide a graphical depiction of the data being processed/transmitted over a network over a period of time will help the client in determining where and when to recover the data from (Lam: par. 3 and 8-10).

In response to C), the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "identifying, from the stored cache data, the communication paths of the nodes that sent the data") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Lam does disclose the use of IP protocol for transmitting/processing data packets between nodes within the system, reads on this limitation. The IP packet header does in fact consist of an "options" component which in turn specifies the sequence of routers a data packet traverses from source to destination node. Additionally, Pruthi discloses various

network monitors that measuring and quantifying network performance statistics that identify graph and plot traffic flow over various communication lines/paths/connections.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

M.A. 5/25/2009

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

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